

The National Grange

Of the Order of Patrons of Husbandry

Building Communities



March 29, 2010

Chairman Julius Genachowski
Commissioner Meredith Attwell Baker
Commissioner Mignon Clyburn
Commissioner Michael J. Copps
Commissioner Robert M. McDowell

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: GN Docket No. 09-191

Dear Chairman Genachowski and Commissioners:

In our previous comments, the National Grange¹ called upon the Federal Communications Commission (FCC) to concentrate its efforts on completing the development of a National Broadband Plan to speed the development of broadband service in rural areas. We advocated this approach over the alternative of having the FCC move forward with implementing unnecessary government regulations and controls on the management of the Internet.

The National Grange is pleased and excited that the FCC has finally released a comprehensive National Broadband Plan, which, if implemented aggressively, will focus the Commission's attention and resources on the goal of expanding access to broadband technology to all Americans, regardless of their geographic location. However, even with the release of the National Broadband Plan, the skeptical stance adopted by the National Grange toward the FCC's on-going rulemaking related to preemptive regulation and control over the management of Internet has not changed. In fact, we would like to expand our previous comments on this issue by echoing the sentiments recently expressed by Senator Olympia Snowe. In a letter to the FCC last October, Sen. Snowe asked that the Commission "...ensure that overly prescriptive network neutrality regulations do not infringe on our effort to provide affordable, high-speed broadband to every American."

¹ The National Grange is the nation's oldest general farm and rural public interest organization. Founded in 1867, today the National Grange advocates on public policy issues affecting Grange members affiliated with nearly 2700 local, county and state Grange chapters located in farming and rural communities in 40 states. For more information, please visit www.nationalgrange.org.

Consistent with Senator Snowe's comments, the National Grange believes that significant flexibility is necessary to allow network operators to effectively manage their networks to ensure quality of service (QoS) to all customers, especially those in the rural communities. The National Grange is deeply concerned that the Notice of Proposed Rulemaking's draft nondiscrimination clause amounts to an outright ban on QoS enhancements managed by network operators. This overly broad prohibition will harm the Internet experience of the average consumer, especially rural consumers, seeking avenues for better service and it will raise additional adoption barriers for those in disadvantaged and rural communities.

Allowing Internet operators to reasonably manage their networks in the face of exploding amounts of data is critical to the proper functioning of a dynamic and rapidly growing Internet. As we said in our earlier filing, one-size-fits all, regulatory prohibitions that dictate the management of the Internet's infrastructure will be counter-productive. Specifically, the National Grange believes that maintaining private network management is a key purveyor of the unique and reliable end user expectations for Internet service in rural, farming and tribal areas. As more and more rural Americans use broadband to connect with doctors, telecommute, run small businesses, and access educational resources, heavy bandwidth applications and the arrival of new software streaming across the network will become the common expectation for rural broadband customers. Internet service providers must maintain unmitigated ability to manage that traffic so as to maximize each consumer's experience, regardless of their geographic location.

Restrictive and prescriptive rule-making, such as the proposed nondiscrimination clause, that attempts to dictate how network management can and cannot occur, will likely be an ad hoc, hasty and ill-advised process, that could very quickly become outdated given the ever-changing user demands on networks and the innovation that is constantly being deployed to manage networks and enhance user experiences.

In addition, the Commission's decision to move forward on these regulations without a deliberative public record will also potentially stifle the benefits that broadband and the Internet bring to rural, farming and tribal communities by making it unclear whether or not the Commission's actions will address the real life issues faced by current and future Internet users. As we have previously noted in comments for this rulemaking, grassroots Grange members have raised legitimate concerns related to protecting children from inappropriate materials they are not legally entitled to access, enforcing trademark, copyright and other intellectual property protections and reducing the incidents of fraud, spam and loss of privacy through unregulated Internet based **applications**. This is an area that is not being addressed in the FCC's current proposals. In fact, the draft nondiscrimination clause, as currently written, could very well **preclude** responsible network management that theoretically could affirmatively **degraded** specific user experiences as a sensible first-line-of-enforcement mechanism to discourage widespread use of illegal or questionable Internet based applications.

More over, there is little intuitive intellectual support for an argument that corporations that dominate the ownership and management of the physical property and infrastructure critical to the functioning of the Internet should be subject to stringent regulatory oversight and prohibitions while equally dominant corporations that control and manage

the software and intellectual property based infrastructure critical to the functioning of the Internet should not be subject to similar affirmative regulatory expectations of serving the public interest. We note in support of this position, that while the anti-trust authorities of the European Union have opened an investigation into the practices of Google, the dominant search engine company, related to their use of proprietary mathematical algorithms within their search engine software that may result in anti-competitive practices that have a negative impact on end user QoS, the FCC has offered little public guidance or comment on this issue.

The National Grange continues to believe that the Commission's posture towards management practices on the network, whether related to the management of hardware infrastructure or software infrastructure, should remain one of vigilance. The Commission has previously adopted a comprehensive *Internet Policy Statement* that broadly describes the basic rights of internet users to access lawful content, run applications and services, connect devices to the network and enjoy the advantages of competition. The National Grange supports the continued oversight by the Commission to enforcing the principals of the *Internet Policy Statement* as part of the National Broadband Plan.

The National Grange continues to firmly believe that access to affordable, high-speed broadband service is essential to the economic sustainability of our nation's farming, rural and tribal communities. On behalf of rural America, the National Grange asks the FCC to follow the clear intent of Congress and focus its resources on implementing the National Broadband Plan that will help broadband reach all parts of rural America. We urge the Commission to reject inflexible regulation that would suppress innovation and increase the barriers to broadband adoption that prevent those Americans living in underserved communities from realizing the benefits of high speed Internet access.

Thank you for the careful consideration of these comments.

Sincerely,

Leroy Watson

Leroy Watson, Legislative Director
National Grange of the Order of Patrons of Husbandry